IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 14082 of 1998

Between:

Goli Suresh, S/o G. Viswanatham, R/o Hyderabad.

..... PETITIONER

AND

1 General Manager (Telephones) (South) Telecommunications
Suryalok Complex, Hyderabad
2 Sub Divisional Engineer, CS South Room No.414,
Telecommunications, Surya lok Complex, Hyderabad.
3 The Accounts Officer, Commercial Telephones,
Suryalok Complex, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus directing the respondents not to disconnect the STD Public Telephone No.7569076 for non payment of the bill dt: 5-4-1998 declaring their inaction as illegal and ultravires to the provisions of Art.14 and 21 of the Constitution of India.

For the Petitioner: MR.V.S.R.ANJANEYALU, Advocate

For the Respondent No.: MR. S.S. VARMA, SC FOR BSNL

The Court made the following :

ORDER:

This writ petition is filed seeking a direction to the respondents not to disconnect the STD public telephone No.7569076, for non-payment of telephone bill, dated 05-04-1998.

The petitioner claims to have been running an STD telephone booth with telephone bearing No.7569076 since 03-04-1996. He states that the bill amount to the telephone never crossed Rs.11,000/- except on one or two occasions, and on one occasion when the bill for the period from 01-03-1998 to 15-03-1998 was issued excessively for an amount of Rs.31,258/-, on his representation dated 31-03-1998, the same was revised to Rs.9,553/-. He further states that he received bill for the period from 15-03-1998 to 01-04-1998 for an amount of Rs.28,283/-, which according to him, is excessive and abnormal. His grievance is that though he made a representation dated 17-04-1998 requesting the second respondent to look into the matter and issue revised bill with exact and correct amount, no orders have been passed so far, and on the other hand, the officials of the respondents told him that if he fails to clear the bill, the telephone would be disconnected within 48 hours. Hence, the writ petition.

This Court while admitting the writ petition on 15-05-1998, passed interim order in W.P.M.P. No.16954 of 1998 directing the respondents not to disconnect the telephone No.7569076 on the condition the petitioner deposits a sum of Rs.10,000/- before the third respondent, within two weeks, and the said order was made absolute on 16-03-2000 in W.V.M.P. No.3307 of 1999.

On behalf of all the respondents, the second respondent filed counter-affidavit denying the allegations made in the affidavit filed in support of the writ petition. It is stated that the petitioner has to pay an amount of Rs.29,243/- with late payment charges, under the telephone bill dated 05-04-1998 for the period from 15-03-1998 to 31-3-1998. In compliance to the orders of this Court in W.P.M.P. No.16954 of 1998 dated 15-05-1998, the petitioner paid an amount of Rs.10,000/- to the telephone bill, as such, the department allowed the petitioner to do the business on STD PCO. It is stated that the telephone traffic on an STD PCO cannot be predicted

as uniform since the PCO usage varies as per the public needs. In this manner the average consumption of earlier periods of the telephone cannot be taken as a valid ground to give any rebate.

Heard the learned counsel for the petitioner and the learned Standing Counsel for BSNL appearing on behalf of the respondents. Both the counsel submitted that the writ petition may be disposed of with a direction to the respondents to appoint an Arbitrator under Section 7B of the Indian Telegraph Act, 1885 to resolve the dispute between the parties with regard to excess billing.

In the circumstances, the writ petition is disposed of with a direction to the respondents to appoint an Arbitrator under Section 7B of the Indian Telegraph Act, 1885 within three months from today to resolve the dispute of excess billing between the petitioner and the respondents with respect to telephone bill, dated 05-04-1998 for the telephone bearing No. 7569076 relating to the period from 15-03-1998 to 31-3-1998.

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N.V. RAMANA, J

Date: 22-02-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 General Manager (Telephones) (South) Telecommunications
Suryalok Complex, Hyderabad
2 Sub Divisional Engineer, CS South Room No.414,
Telecommunications, Surya lok Complex, Hyderabad.
3 The Accounts Officer, Commercial Telephones,
Suryalok Complex, Hyderabad

4 Two CD copies.

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